

IN THE SENATE

SENATE BILL NO. 1329

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PARENTAL RIGHTS; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY
2 THE ADDITION OF A NEW SECTION 32-1015, IDAHO CODE, TO ESTABLISH PROVI-
3 SIONS REGARDING PARENTAL RIGHTS IN MEDICAL DECISION-MAKING, TO DEFINE
4 TERMS, TO ESTABLISH PROVISIONS REGARDING PARENTS' RIGHT TO ACCESS
5 HEALTH INFORMATION, AND TO ESTABLISH PROVISIONS REGARDING A CAUSE OF
6 ACTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 10, Title 32, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 32-1015, Idaho Code, and to read as follows:

12 32-1015. PARENTAL RIGHTS IN MEDICAL DECISION-MAKING. (1) As used in
13 this section:

14 (a) "Governmental entity" means the state and its political subdivi-
15 sions.

16 (b) "Health care provider" means:

17 (i) A physician, health care practitioner, or other individ-
18 ual licensed, accredited, or certified to perform health care
19 services or provide counseling consistent with state law, or any
20 agent or third-party representative thereof; or

21 (ii) A health care facility or its agent.

22 (c) "Health care service" means a service for the diagnosis, screening,
23 examination, prevention, treatment, cure, care, or relief of any physi-
24 cal or mental health condition, illness, injury, defect, or disease.

25 (d) "Health information" means information or data, collected or
26 recorded in any form or medium, and personal facts of information about
27 events or relationships that relates to:

28 (i) The past, present, or future physical, mental, or behavioral
29 health or condition of an individual or member of the individual's
30 family;

31 (ii) The provision of health care services to an individual; or

32 (iii) Payment for the provision of health care services to an indi-
33 vidual.

34 (e) "Minor child" means an individual under eighteen (18) years of age
35 but does not include an individual who is an emancipated minor.

36 (f) "Parent" means a biological parent of a child, an adoptive parent
37 of a child, or an individual who has been granted exclusive right and au-
38 thority over the welfare of a child under state law.

39 (2) Parents have the fundamental right and duty to make decisions con-
40 cerning the furnishing of health care services to the minor child.

41 (3) Except as otherwise provided by court order, an individual shall
42 not furnish a health care service or solicit to furnish a health care service

1 to a minor child without obtaining the prior consent of the minor child's
2 parent.

3 (4) Subsection (3) of this section shall not apply, and a health care
4 provider may authorize or furnish a health care service without obtaining
5 the informed consent of the minor child's parent, if:

6 (a) A parent of the minor child has given blanket consent authorizing
7 the health care provider to furnish the health care service; or

8 (b) The health care provider reasonably determines that a medical emer-
9 gency exists and:

10 (i) Furnishing the health care service is necessary in order to
11 prevent death or imminent, irreparable physical injury to the mi-
12 nor child; or

13 (ii) After a reasonably diligent effort, the health care provider
14 cannot locate or contact a parent of the minor child and the mi-
15 nor child's life or health would be seriously endangered by fur-
16 ther delay in the furnishing of health care services.

17 (5) No health care provider or governmental entity shall deny a minor
18 child's parent access to health information that is:

19 (a) In such health care provider's or governmental entity's control;
20 and

21 (b) Requested by the minor child's parent.

22 (6) Subsection (5) of this section shall not apply if:

23 (a) Parent's access to the requested health information is prohibited
24 by a court order; or

25 (b) The parent is a subject of an investigation related to a crime com-
26 mitted against the child, and a law enforcement officer requests that
27 the information not be released to the parent.

28 (7) This section shall be construed in favor of a broad protection of
29 parents' fundamental right to make decisions concerning the furnishing of
30 health care services to minor children.

31 (8) This section does not make legal and in no way condones any abuse,
32 abandonment, or neglect, including any act or omission described in section
33 16-1602, Idaho Code.

34 (9) This section does not make legal and in no way condones euthanasia,
35 mercy killing, or assisted suicide, or permit an affirmative or deliberate
36 act or omission to end life, including any act or omission described in sec-
37 tion 18-4017, Idaho Code, other than to allow the natural process of dying.

38 (10) If a minor child does not have an affirmative right of access to
39 a specific treatment, service, or procedure, this section shall not be con-
40 strued to grant the parent a right to access such treatment, service, or pro-
41 cedure.

42 (11) This section shall not be construed to prohibit a court from issu-
43 ing an order that is otherwise permitted by law.

44 (12) (a) Subject to the limitations of chapter 9, title 6, Idaho Code,
45 any parent who is deprived of a right as a result of a violation of this
46 section shall have a private right of action against the individual,
47 health care provider, or governmental entity.

48 (b) A parent may raise this section as a defense in any judicial or
49 administrative proceeding without regard to whether the proceeding is

1 brought by or in the name of the state, any private person, or any other
2 party.

3 (c) A parent who successfully asserts a claim or defense under this sec-
4 tion may recover declaratory relief, injunctive relief, compensatory
5 damages, reasonable attorney's fees, and any other relief available un-
6 der law.

7 (d) All civil actions shall be initiated within two (2) years after the
8 harm occurred.

9 SECTION 2. An emergency existing therefor, which emergency is hereby
10 declared to exist, this act shall be in full force and effect on and after
11 July 1, 2024.